

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES,

-v-

LIN LONG QUN,

Defendants.

00-CR-0694 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Petitioner Lin Long Qun brings this motion to “verify credit for time served.” See Dkt. No. 38; *see also* Dkt. No. 43. The Court directed the Government to respond by September 3, 2021. *See* Dkt. No. 41. The Government has responded noting that the Court lacks jurisdiction over Mr. Long Qun’s motion because his request for relief is properly brought only in the Eastern District of California. Dkt No. 44.

Mr. Long Qun does not challenge the legality of his sentence, but challenges instead its execution subsequent to his conviction. Accordingly, his motion is properly brought via an application for writ of habeas corpus pursuant to 28 U.S.C. § 2241. *See Carmona v. U.S. Bureau of Prisons*, 243 F.3d 629, 632 (2d Cir. 2001). Such a proceeding is most properly brought against the applicable Bureau of Prisons warden in the district where the defendant is incarcerated. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Mr. Long Qun is currently incarcerated at FCI Mendota, located in Fresno County, California. Accordingly, his motion should have been brought in the Eastern District of California. In light of Mr. Long Qun’s pro se status and in the interest of justice, the Court transfers the case to the Eastern District of California which can determine whether to treat it as an application for a writ of habeas corpus. *See* 28 U.S.C. § 1406(a). The United States Attorney’s Office for the Southern District of New York is directed to inform the United States Attorney’s Office for the Eastern District of California of the motion and this order by August 31, 2021.

The Clerk of Court is respectfully directed to mail a copy of this Order to the movant, Mr. Long Qun.

SO ORDERED.

Dated: August 27, 2021
New York, New York



LEWIS J. LIMAN
United States District Judge